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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,476	04/19/2004	Kenneth B. Higgins	5615B	3281

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MILLIKEN & COMPANY
PO BOX 1926
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EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/827,476

Applicant(s)

HIGGINS ET AL.

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 19-45 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 19-24, 38, 39, 42, and 43 is/are allowed.
- 6) ☒ Claim(s) 25, 26, 30-32, 37, 40, 41, 44, 45, 48, and 49 is/are rejected.
- 7) ☒ Claim(s) 27-29, 33-36 and 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed September 25, 2006, has been entered. Claims 1, 25, and 37 have been amended as requested. Claims 12-18, 46, and 47 have been cancelled and new claims 48-50 have been added. Thus, the pending claims are 1-11, 19-45, and 48-50.
2. Said amendment is sufficient to withdraw the 102 rejection of claims 1-14, 19, and 20 as set forth in sections 2 and 3 of the last Office Action, the 102 rejection of claims 1-14 and 19-24 as set forth in section 4 of the last Office Action, and the 102/103 rejection of claims 21-24 as set forth in section 6 of the last Office Action. Specifically, applicant has amended independent claim 1 to include the limitations of claims 15-18, which were not rejected under 102. Thus, said rejections are hereby withdrawn.
3. Regarding the 103 rejections set forth in sections 6 and 7 of the last Office Action, applicant has made a statement of coassignment of the present application and the cited Higgins '152, '985, '991, and '994 references (Amendment, paragraph spanning pages 10-11). As such, according to 35 USC 103(c), said Higgins references are not available as prior art under 103. Therefore, said obviousness rejections are hereby withdrawn.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 25, 26, 30-32, 40, 44, and 45 stand rejected under 35 USC 102(e) as being anticipated by US 2003/0203152 issued to Higgins et al. as set forth in section 2 of the last Office Action.

Claims 25, 26, 30-32, 40, 44, and 45 stand rejected under 35 USC 102(e) as being anticipated by US 2004/0022991 issued to Higgins et al. and US 2004/0022985 issued to Higgins et al. as set forth in section 3 of the last Office Action.

Claims 25, 26, 30-32, 40, 44, and 45 stand rejected under 35 USC 102(e) as being anticipated by US 2004/0022994 issued to Higgins et al. as set forth in section 4 of the last Office Action.

Applicant has amended independent claim 25 with the limitation that the friction enhancing coating composition does not permanently stick to the support surface. However, said amendment is insufficient to overcome said rejection since the Higgins references disclose tufted carpet tiles having a friction enhancing coating that provides lateral grip with little or no vertical stick and with little or no blocking to itself or the carpet face (e.g., Higgins '152, section [0119]). Additionally, said coating does not permanently stick to a subfloor surface (e.g., Higgins '152, section [0119]). Thus, said amendment is insufficient to overcome said rejections.

Applicant traverses said rejections by asserting that none of the cited Higgins references teach a friction enhancing coating on a surface covering element with an underside of PVC as is presently claimed (Amendment, page 10, 2nd paragraph). In response, it is noted that the carpet of Higgins '152 may comprise a layer of PVC as a foam cushion layer (sections [0084], [0105], and [0113]). Additionally, each Higgins reference teaches embodiments where the nonwoven backing layer is omitted (i.e., cushion layer is undersurface of tile to which friction enhancing

coating is applied) (e.g., see Figures 22 and 23 of Higgins '152 and sections [0117] and [0118]).

Therefore, applicant's argument is found unpersuasive and the above rejection stands.

6. Claims 48 and 49 are rejected under 35 USC 102(e) as being anticipated by US 2003/0203152 issued to Higgins et al.

Claims 48 and 49 are rejected under 35 USC 102(e) as being anticipated by US 2004/0022991 issued to Higgins et al. and US 2004/0022985 issued to Higgins et al.

Claims 48 and 49 are rejected under 35 USC 102(e) as being anticipated by US 2004/0022994 issued to Higgins et al.

New claim 48 is rejected over the cited Higgins references since said references clearly teach outwardly projecting pile yarns as the show surface. New claim 49 is also rejected although the references do not explicitly teach a "hardback" carpet tile. However, the term "hardback" is a relative term that does not serve to patentably distinguish the present invention from the prior art. Therefore, new claims 48 and 49 are rejected.

7. Claims 37 and 41 stand rejected under 35 USC 102(e) as being anticipated by US 2003/0203152 issued to Higgins et al. as set forth in section 2 of the last Office Action.

Claims 37 and 41 stand rejected under 35 USC 102(e) as being anticipated by US 2004/0022991 issued to Higgins et al. and US 2004/0022985 issued to Higgins et al. as set forth in section 3 of the last Office Action.

Claims 37 and 41 stand rejected under 35 USC 102(e) as being anticipated by US 2004/0022994 issued to Higgins et al. as set forth in section 4 of the last Office Action.

Applicant has amended independent claim 37 to include the limitation of cancelled claim 47. However, since claim 47 was previously rejected under 102, the rejections stand.

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Specifically, while Higgins fails to explicitly teach a “predrafted elliptically needled felt,” it is argued that this description of the felt material amounts to a method limitation in a product claim. In other words, the method steps of predrafting and elliptically needled are not believed to produce a structurally different product than the general felt taught by Higgins. As such, the limitation of “predrafted elliptically needled felt” is not given patentable weight at this time and the above rejection stands.

Applicant traverses said rejection by asserting the specification teaches that predrafted elliptically needled felts provide a higher surface area for depositing the coating which results in “improved performance” (Amendment, page 10, 3rd paragraph). This argument is unpersuasive since the disclosure of the specification does not provide sufficient information to establish the predrafted elliptically needled felt is structurally different than the prior art felt. In particular, without noting a starting and/or final basis weight of the nonwoven, a drafting step does not produce a structurally different product from a product of a like basis weight. Additionally, it is not clear how the elliptical needles produce a structurally different product. Furthermore, it is not clear how the “improved performance” is measured. Therefore, applicant’s argument is found unpersuasive and the above rejection stands.

Allowable Subject Matter

8. Claims 1-11, 19-24, 38, 39, 42, and 43 are allowed.
9. Claims 27-29, 33-36, and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

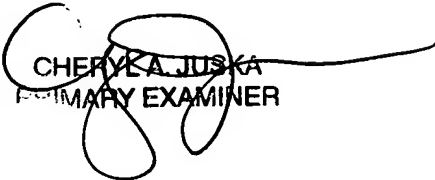
11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHERYL A. JUSKA
PRIMARY EXAMINER

cj

December 21, 2006